

# **SUBCOMMITTEE NO. 4**

# **Outcomes**

**Senator Michael J. Rubio, Chair**  
**Senator Noreen Evans**  
**Senator Doug La Malfa**



**Monday, February 7, 2011**

**Consultant: Seija Virtanen**

## **PART B**

### **Item Number and Title**

1100	California Science Center
1110	Department of Consumer Affairs, Boards
1111	Department of Consumer Affairs, Bureaus
2150	Department of Financial Institutions
2400	Department of Managed Health Care

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**Issues Proposed for Vote Only:**

	<b>Issue</b>	<b>2011-12 Amount</b>	<b>Fund Source</b>	<b>Staff Recommendation</b>
<b>Department of Consumer Affairs, Boards (1110/1111)</b>				
1	Board of Accountancy: Enforcement Division Staffing Augmentation	\$0 (position authority only)	Special Funds	APPROVE
2	Physician Assistant Committee: Increase Reimbursement Authority	\$25,000	Special Funds	APPROVE
3	State Board of Optometry: Staff Services Manager I Position	\$0 (position authority only)	Special Funds	APPROVE
4	Various Bureaus: Baseline Funding Reduction	-\$1.6 million combined	Various Special Funds	APPROVE
<b>Department of Managed Health Care (2400)</b>				
5	Health Care Reform	\$1.4 million	Special Funds	APPROVE

**Vote:            Issues 1, 2, 3, 4 vote 2-0 (Evans)  
                      Issue 5 open**

## **Issues Proposed for Vote Only – Issue Descriptions**

### **DEPARTMENT OF CONSUMER AFFAIRS, BOARDS (1110) DEPARTMENT OF CONSUMER AFFAIRS, BUREAUS (1111)**

*For overview and budget information regarding this department, please see page 10 of this agenda.*

#### **Issue 1 – Board of Accountancy: Enforcement Division Staffing Augmentation**

**Board of Accountancy.** Created by statute in 1901, the California Board of Accountancy's legal mandate is to regulate the accounting profession for the public interest. To accomplish this, the Board qualifies California candidates for the National Uniform Certified Public Accountant (CPA) Examination; certifies, licenses, and renews licenses of individual CPAs and Public Accountants (PA); and registers CPA and PA partnerships and corporations; receives and investigates complaints; and takes enforcement actions against licensees for violation of Board statutes and regulations.

The Board of Accountancy currently regulates over 77,000 licensees, the largest group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

The 2010-11 Budget for the Board of Accountancy is \$12.21 million and 82.5 positions. The proposed 2011-12 Budget for the Board of Accountancy is \$11.45 million and 85.8 positions. The Board of Accountancy's funding comes from fees paid by the licensees deposited into the Accountancy Fund.

**Governor's Budget Request.** The Governor requests position authority only for 2.5 Associate Governmental Program Analysts. The cost of these positions is \$205,000 annually and will be redirected from excess funding authority in the Accountancy Fund.

**Background.** The Board of Accountancy's Enforcement Program currently has 17 positions. With a licensee population of 77,000, this equates to over 4,500 licensees per position. The Enforcement Program is responsible for investigations of complaints, probation monitoring, investigation of unlicensed activity, and verification of continuing education. In 2009-10 there were 682 complaints and an additional 67 cases of unlicensed activity. The Enforcement Program's average time for dealing with complaints is 249 days, but 46 cases have currently been open for more than a year. The new requested positions are intended to bring the timeframe for closing all cases down under 12 months.

#### **Issue 2 – Physician Assistant Committee: Increase Reimbursement Authority**

**Physician Assistant Committee.** The mission of the Physician Assistant Committee (PAC) of the Medical Board of California is to protect and serve consumers through

licensing, education, and objective enforcement of the Physician Assistant laws and regulations. The PAC licenses and regulates physician assistants; enforces laws and regulations relating to physician assistant practice; encourages utilization of physician assistants in medically underserved areas; seeks ways and means to rehabilitate drug and alcohol impaired physician assistants; and encourages development of new physician assistant training programs and expansion of existing programs.

**Governor's Budget Request.** The Governor requests \$25,000 in increased reimbursement authority for the PAC. The increased reimbursement authority would be used towards enforcement expenses that include investigation, attorney general, and probation monitor costs as intended.

**Background.** The reimbursements come primarily from applicant fingerprint fees and cost recovery ordered through disciplinary actions. Also, in 2007, the PAC began requiring licensees placed on probation to pay their probation monitoring costs. The reimbursement funds are placed in the Physician Assistant Fund, and cannot be spent unless there is reimbursement authority provided in the Budget Act.

During the last four years, PAC has collected between \$10,000 and \$46,000 more in reimbursements than it had authority to spend. If reimbursement authority is provided, but there are no funds in the account, the PAC would not be able to move expenditures forward.

In previous years, the PAC was forced to stop program activities during the last quarter of the fiscal year because its enforcement budget had been expended and the extra reimbursements from cost recovery and probation monitoring could not be used to offset enforcement costs.

### **Issue 3 – State Board of Optometry: Staff Services Manager I Position**

**State Board of Optometry.** The California Legislature created the Board in 1913 to safeguard the public's health, safety, and welfare through regulation of the practice of optometry. Business and Professions Code section 3010.1 mandates the Board's highest priority as protection of the public. The State Board of Optometry is mandated to protect the public from the unauthorized and unqualified practice of optometry and from unprofessional conduct by persons licensed to practice optometry through its licensing, regulatory, and disciplinary functions.

**Governor's Budget Request.** The Governor requests position authority only for one Staff Services Manager I (SSMI) to serve as the Enforcement Manager. The position will cost \$93,000 annually and will be funded by a redirection from Operating Expenses and Equipment from the State Optometry Fund.

**Background.** Currently, there are approximately 7,000 active optometric licensees in California and the state gains approximately 200 new licensees each year from new graduates and out-of state doctors seeking licensure in California. The increase in the licensee population over the years has led to a workload increase in administrative, licensing, and enforcement-related activities for Board staff, as well as an increase in the number of staff.

Supervising the increased workload has fallen on the Executive Officer (EO), which has resulted in extensive overtime and failing to meet various deadlines related to executive-level and supervisory tasks and responsibilities, e.g., completing Board minutes, probationary reports and individual development plans (IDPs), preparing progressive disciplinary counseling memos, drafting legislative proposals, and updating the Board's Strategic Plan. An SSM I would be able to assist the EO with the day-to-day supervision of staff, and oversee personnel, budget, and business service functions relating to enforcement activities within the Board.

Specifically, the SSM I would:

1. Provide day-to-day supervision;
2. Plan, organize, and direct the day-to-day work of clerical/analytical staff;
3. Hire/train new employees;
4. Complete probationary reports, annual reviews and individual Development Plans (IDPs), progressive disciplinary counseling memo;
5. Review and approve time-off requests; etc.

#### **Issue 4 – Various Bureaus: Baseline Funding Reduction**

**Governor's Budget Request.** The Governor requests a decrease in baseline funding authority for 2011-12 and on-going for the following programs:

1. Board of Accountancy: -\$1,000,000
2. Architects Board: -\$100,000
3. Board of Occupational Therapy: -\$34,000
4. Bureau of Automotive Repair: -\$500,000

**Background.** These Boards and Bureaus have consistently had reversions at the end of the fiscal year. This baseline funding reduction is a technical adjustment to bring funding authority in line with actual spending.

#### **DEPARTMENT OF MANAGED HEALTH CARE (2400)**

*For overview and budget information regarding this department, please see page 19 of this agenda.*

#### **Issue 5 – Health Care Reform**

**Governor's Budget Request.** The Governor requests \$1,776,000 for 13.0 two-year limited-term positions to address new workload resulting from the March 2010 federal Health Care Reform Legislation.

**Background.** On March 23, 2010, President Obama signed into law comprehensive health care reform, the Patient Protection and Affordable Care Act, which was subsequently modified by the Health Care and Education Reconciliation Act of 2010 (hereinafter referred to as "Health Care Reform"). Health Care Reform will fundamentally alter the availability and structure of health insurance, bring coverage for the first time to

millions of Californians, and bring new coverage options for millions of enrollees who receive care through California Knox-Keene Licensed health plans and contracted medical groups.

In light of the recent enactment of Health Care Reform, DMHC must take immediate action to assess and address the impacts of the reform on its mission critical operations. In response to Health Care Reform, DMHC will have to develop state regulations, review health plan documentation to comply with the new law, and respond to consumer inquiries.

The Department of Managed Health Care (DMHC) has explained that the positions are requested on a two-year limited-term basis not because DMHC expects the workload to be temporary, but to monitor the activity that results from Health Care Reform to determine if the workload assumptions hold true. Over the course of the two years, once all impacts are considered and a better assessment of new Health Care Reform workload results, the department will submit a future Budget Change Proposal to address the new permanent workload generated by the Health Care Reform legislation.

**Department Overview.** The California Science Center is an educational, scientific, and technological center located in Exposition Park, a 160-acre tract in south Los Angeles. The Science Center has interactive exhibits on human inventions and innovations, the life processes of living things, and temporary exhibits. The California African American Museum (CAAM), also included in the park, provides exhibitions and programs on the history, art, and culture of African Americans. In addition, the Office of the Park Manager is responsible for maintenance of the park, public safety, and parking facilities.

**Budget Overview.** The January Governor's Budget provides 190 authorized positions and \$28.1 million (\$19.4 million GF). It should be noted that the California Science Center budget includes the California African American Museum, Exposition Park Management, and facilities bond repayments. The reduction to the Science Center's operations is \$3.66 million General Fund.

### ***Issues Proposed for Discussion / Vote***

#### **Issue 1 – Unallocated Budget Reduction**

**Governor's Budget Request.** The Governor requests an unallocated reduction of \$3,660,000 to the Science Center's budget. The Governor also requests budget bill language to allow the Science Center to collect an admissions fee.

**Background.** The unallocated reduction of \$3.7 million is 20 percent of the amount of General Fund remaining after excluding amounts budgeted for lease-revenue payments (\$4.8 million). The General Fund base used for the calculation is \$18.3 million (\$23.1 million total General Fund less the \$4.8 million).

The Science Center's operations have been based on the value that everyone is allowed access, and thus no admission fee has been charged. The Science Center does charge for parking and the IMAX movie tickets.

**Staff Comment.** Approximately one-third of the Science Center's visitors are school groups, which would be unlikely to afford admissions fees for each student, due to the funding restrictions that local school districts are currently experiencing.

Staff thinks that there are some possibilities for the Science Center to raise revenue that does not compromise the Science Center's dedication to free admission. The Science Center already charges \$8 for parking, and \$25 for parking at special events. (The Science Center also charges for their IMAX movie tickets.) It may be possible to raise additional revenue through increasing the parking fee from \$8 to \$10. The increase in parking fees would also apply to events at Exposition Park, including football games and concerts. Based on past Science Center parking fee increase revenue collections, staff estimates that the Science Center can collect approximately \$800,000 in new revenue from raising parking fees.

The Office of the Exposition Park Management has an executive director appointed by the Governor for the purpose of managing, scheduling, and administering all park related events, including oversight for the police and security services of the park.

All items impacting the state of the General Fund will be heard in full committee.

**Staff Recommendation:** Staff recommends this issue be kept open for full committee consideration.

**Vote:** No vote, issue held open

**Departmental Overview and Mission.** The Department of Consumer Affairs (DCA) Boards and Bureaus provide exams and licensing, enforcement, complaint mediation, education for consumers, and information on privacy concerns. DCA Boards and Bureaus establish minimal competency standards for more than 255 professions involving approximately 2.4 million professionals. There are currently 25 boards, a commission, three committees, and eight bureaus under the broad authority of the DCA.

**Budget Overview.** The Boards are budgeted under organizational code 1110, and the total proposed budget is \$271.46 million (no General Fund) and 1,511.3 positions – an increase of \$10.4 million and 35.6 positions over 2010-11.

The Bureaus are budgeted under organizational code 1111, and the total proposed budget is \$231.34 million (no General Fund) and 1,386.6 positions – an increase of \$14.2 million and 5.7 positions over 2010-11.

## DCA Boards and Bureaus

(dollars in thousands)

		Positions		Expenditures	
		2010-11	2011-12	2010-11	2011-12
1	Board of Accountancy	82.5	85.8	\$ 12,210	\$ 11,452
2	Architects Board	30.1	30.1	\$ 4,686	\$ 4,760
3	Athletic Commission	13.7	13.7	\$ 2,541	\$ 2,613
4	Board of Behavioral Science	42.6	43.4	\$ 8,090	\$ 7,898
5	Barbering and Cosmetology	95.1	95.1	\$ 17,303	\$ 18,291
6	Contractors State Licensing	402.1	402.1	\$ 57,514	\$ 59,979
7	Dental Board	71.6	75.1	\$ 12,652	\$ 13,496
8	Dental Hygiene Committee	6.2	6.7	\$ 1,242	\$ 1,358
9	Guide Dogs for the Blind	1.5	1.5	\$ 180	\$ 187
10	Medical Board	265.5	276.7	\$ 52,385	\$ 55,843
11	Acupuncture Board	7.9	8.0	\$ 2,548	\$ 2,603
12	Physical Therapy Board	15.0	16.4	\$ 2,910	\$ 3,290
13	Physician Assistant Com.	4.7	4.8	\$ 1,387	\$ 1,418
14	Podiatric Medicine	4.6	4.6	\$ 1,362	\$ 1,381
15	Psychology	15.3	18.3	\$ 3,879	\$ 4,335
16	Respiratory Care Board	15.9	16.1	\$ 3,035	\$ 3,138
17	Speech-Language Pathology	8.1	8.2	\$ 1,848	\$ 1,615
18	Occupational Therapy	10.5	10.2	\$ 1,417	\$ 1,473
19	Board of Optometry	10.9	11.1	\$ 1,654	\$ 1,574
20	Naturopathic Medicine Com.	0.9	0.9	\$ 130	\$ 141
21	Board of Pharmacy	75.4	80.0	\$ 13,021	\$ 14,448
22	Engineers and Land Surveyors	65.6	65.6	\$ 10,397	\$ 10,774
23	Registered Nursing	128.0	135.6	\$ 28,250	\$ 29,242
24	Court Reporters Board	4.3	4.3	\$ 1,096	\$ 1,114
25	Veterinary Medical Board	12.4	12.0	\$ 2,639	\$ 2,757
26	Vocational Nursing	74.7	73.3	\$ 14,743	\$ 14,237
27	Arbitration Certification Prog.	7.6	7.6	\$ 1,098	\$ 1,107
28	Hearing Aid Dispensers	0.0	0.0	\$ -	\$ -
29	Security and Investigative	50.2	50.7	\$ 11,363	\$ 11,865
30	Private Postsecondary Ed.	55.8	55.8	\$ 10,160	\$ 9,368
31	Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation	41.9	41.9	\$ 7,108	\$ 7,781
32	Automotive Repair	596.2	600.2	\$ 182,192	\$ 195,798
33	Telephone Medical Advise Services Bureau	0.9	0.9	\$ 145	\$ 148
34	Cemetery and Funeral	21.2	18.5	\$ 4,006	\$ 4,149
35	Professional Fiduciaries	1.6	1.6	\$ 282	\$ 308

***Issue Proposed for Discussion / Vote:***

**Issue 1 – Board of Accountancy: Peer Review Program**

**Governor’s Budget Request.** The Governor requests position authority only for one position to address clerical workload in the Board of Accountancy’s Peer Review Program.

**Background.** Business and Professions Code Section 5076 requires that accounting firms providing audit, review, or compilation (accounting and auditing) services undergo a systematic review (peer review) of their accounting and auditing practice to ensure the work performed conforms to professional standards. Business and Professions Code Section 5035.1 defines a firm to be a sole proprietorship, a partnership, or a corporation. Peer review will be required every three years for accounting firms providing accounting and auditing services. This law became operative January 1, 2010, with the first group of accounting firms required to report peer review-related information no later than July 1, 2011.

The Board of Accountancy anticipates that approximately 6,000 accounting firms will be required to undergo a peer review, about 2,000 annually. The Board of Accountancy will be phasing in the accounting firm population over a three-year period, with the first group of accounting firms required to report specific peer review information no later than July 1, 2011. The Board of Accountancy will mail the peer review reporting form to all licensees with a current license once every three years.

In order to handle the volume of peer review reporting forms, the Board of Accountancy has determined that an additional Office Technician will be required to process the forms and be responsible for sending notifications to newly-licensed CPAs, along with other clerical duties. The Board of Accountancy anticipates that approximately five percent, or approximately 100 accounting firms yearly, will receive a substandard peer review rating, which requires submission of the peer review report by accounting firms. The Board of Accountancy also anticipates that beginning fiscal year 2011-12, 30 accounting firms will be referred to the Enforcement Division annually for failing to undergo a peer review, with increased referrals the following years. The Office Technician will assist with referral intake and provide some clerical support to Enforcement staff.

**Staff Comment.** The Board of Accountancy anticipates that only about half of the peer review reporting would take place electronically. If more licensees choose to file their peer reviews electronically, or if fewer firms are referred to the Enforcement Division than projected, there may be less workload and the need for an additional Office Technician will be reduced.

**Staff Recommendation.** Approve as a two-year limited-term position.

**Vote: Approved as two-year limited term position  
2-0 (Evans)**

## **Issue 2 – Bureau of Automotive Repair: Consumer Assistance Program Funding Realignment and Augmentation**

**Bureau of Automotive Repair.** The Bureau of Automotive Repair is responsible for regulating the automotive repair marketplace and administering the Smog Check Program. To carry out its mandate, the Bureau educates consumers, disciplines stations and technicians, seeks resolution to complaints, and licenses individuals and businesses. The Bureau also administers the nation's largest motor vehicle emissions reduction program.

**Governor's Budget Request.** The Governor requests \$22.157 million and 12.3 positions from the Enhanced Fleet Modernization Subaccount in 2011-12 and ongoing. In addition, the Governor requests a reduction of \$7.693 million and 8.0 positions from the High Polluter Repair or Removal Account.

**Background.** A key part of California's air quality emissions reduction strategy is to implement incentive-based air quality programs to encourage the early retirement and replacement of older vehicles with newer, cleaner ones. Older vehicles account for approximately 25 percent of the miles driven but contribute up to 75 percent of the emissions released. Reducing emissions from the older vehicles is a critical part of California's State Implementation Plan (SIP), which outlines the state's clean air strategy. The SIP is used by the federal government to determine the amount of federal transportation funds California will receive.

The Consumer Assistance Program (CAP) was started in 1997 and contains two parts: vehicle retirement and vehicle repair. Under the vehicle repair program, qualified low-income consumers can receive financial assistance of up to \$500 to repair a vehicle that is unable to pass a biennial Smog Check inspection when it exceeds specified emission standards. To receive the repair assistance, eligible consumers must pay the initial \$20 in repairs. Beginning in 2000, a directed vehicle repair program was started that allowed qualified consumers who owned a vehicle directed to a Test-Only or Gold Shield Smog Check station for an initial inspection to receive up to \$500 in additional financial assistance toward emissions-related repairs after they paid the first \$100 of repairs. Directed vehicles are identified by the Bureau of Automotive Repair.

Under the vehicle retirement program, until August 2010, consumers were paid \$1,000 to retire a vehicle. These funds are not paid until after the vehicle is dismantled.

The passage of AB 787 (Hill, 2010) makes several additional changes to CAP. Under AB 787 the Bureau of Automotive Repair must offer all eligible low-income consumers an additional \$500 to retire a vehicle through CAP. AB 787 also allows any vehicle that has been registered in California for two continuous years and has failed a lawfully required Smog Check inspection to be retired through CAP.

AB 787 also eliminates the provision of law authorizing owners of directed vehicles the ability to participate in the repair assistance option of CAP based solely on this designation and receive \$500 toward emissions-related repairs.

**Staff Comment.** The expansion of the vehicle retirement program from a \$1,000 payment to a \$1,500 payment is anticipated to cost approximately \$8 million annually in

addition to the base costs of \$14.1 million annually (for a total cost of about \$22.1 million). The Bureau of Automotive Repair estimates that about 16,600 vehicles will be retired annually.

Savings result from the elimination of the directed vehicle part of the vehicle repair program. The Bureau of Automotive Repair data indicates that about 40 percent (or 18,682) of the vehicle repair eligible consumers participated in the directed vehicle program. The elimination of this program will lead to \$7,603,600 in program savings and an additional \$470,000 in administrative savings (total \$8,073,600 in savings).

**Staff Recommendation.** Approve.

**Vote:** No vote, issue held open

### Issue 3 – Various Boards and Bureaus: BreEZe

**Governor’s Budget Request.** The Governor requests a realignment of existing BreEZe funding authority by \$1.2 million in 2011-12. The funding is prior year funds that had not been spent. Previously, the Legislature had approved a schedule of funding with \$2,283,000 for BreEZe in 2011-12, and this augmentation will bring the 2011-12 funding to \$3,483,000.

The budget for BreEZe is as follows (years 2010-11 through 2014-15 total \$20.3 million):

- 2010-11: \$1,330,000 (redirected from existing resources)
- 2011-12: \$3,483,000
- 2012-13: \$3,600,000
- 2013-14: \$6,219,000
- 2014-15 and ongoing: \$6,125,000

**Background.** Licensing of businesses and professionals includes: processing applications and qualifying applicants, conducting exams/processing results, maintaining and analyzing licensing-related information, authorizing practice(s) and issuing licensing documents, renewing licenses, performing Family Support verification, creating a variety of management reports, and processing a multitude of other requests.

The BreEZe system will bring all of the DCA boards and bureaus into an integrated licensing and enforcement system. In addition, the licensees will be able to use the BreEZe system to renew their licenses and update their addresses on-line. Currently, the 40 boards and bureaus do not have integrated systems (so a person could hold a medical license and a pharmacy assistant license and it would not be known to the enforcement units). BreEZe will allow for secure cross-license checking for every DCA board and bureau, and provide the ability to interface with any other capable external systems used in the enforcement process, such as the Department of Justice, the Employment Development Department, or the Department of Public Health, once the appropriate agreements have been established authorizing the secured sharing of the data.

The DCA Office of Information Services has an Office of the Chief Information Officer approved Feasibility Study Report (FSR) proposal for the BreEZe project.

The DCA has structured the BreEZe cost proposal based on a “fee-per-transaction” payment model. Under this payment model, the solution vendor receives no payment prior to the State’s acceptance and use of the production system. Instead, the solution vendor will be compensated by assessing system clients with a transaction fee for specific master transactions. For the BreEZe system, the DCA is anticipating that the solution vendor will assess a \$3 per transaction fee to boards and bureaus for each new application or \$0.50 for each renewal processed through the new system.

The BreEZe Request for Proposals (RFP) was released in May 2010, and was met with concerns from bidders that the proposed payment model was overly burdensome and would limit the bidders’ ability to submit proposals to the state. DCA wants to change the RFP to provide a \$1.2 million payment for the solution software following installation of the software on State equipment, and the State’s acceptance of the detailed solution design.

**Staff Comment.** Last year the Legislature requested a report on staffing workload needs once the BreEZe system is completed. The BreEZe system should be able to expedite the license renewal process and reduce the amount of paperwork that must be manually processed. The Legislature also requested a copy of the final vendor contract in order to ensure that costs remain reasonable.

Since the BreEZe system will automate much of the licensing renewal process it can potentially create great savings for the DCA boards and bureaus. Delays in contracting would also delay the actualization of these savings.

This augmentation does not increase the overall project costs, but rather takes current year unspent funds and offers them as a bidding incentive.

**Staff Recommendation.** Approve.

**Vote: Approved**  
**2-0 (Evans)**

#### **Issue 4 – Board of Accountancy and Dental Board: Loan Repayment**

**Dental Board of California.** The Dental Board of California establishes minimal standards of competency for those individuals seeking to practice as a dentist, registered dental hygienist, registered dental assistant, dental auxiliary in extended function, or dental hygienist in alternative practice. The Board enforces standards to protect California dental consumers from incompetent dental practitioners, and the utilization of dental auxiliaries contributes to providing quality dental services to Californians.

Effective January 1, 2009, the State Dental Assistant Committee (Committee) was created and assumed the duties of the Committee on Dental Auxiliaries with regard to dental assistants, pursuant to Chapter 31, Statutes of 2008 (SB 853).

**Governor's Budget Request.** The Governor requests repayment of two loans from the General Fund to special funds: 1) \$10 million repayment by the General Fund to the Accountancy Fund, and 2) \$2.5 million repayment by the General Fund to the State Dentistry Fund.

**Background.** During the 2010-11 fiscal year, the State loaned \$10 million from the Accountancy Fund to the General Fund. This amount is set to be repaid in June 2012.

During the 2002-03 fiscal year, the State loaned \$2.5 million from the State Dentistry Fund to the General Fund. This amount is set to be repaid in June 2012.

**Staff Comment.** The Accountancy Fund loan repayment can be delayed by one year without having an influence on the Board's programs.

\$1.3 million of the loan from the State Dentistry Fund can be delayed by one year without having an influence on the Board's programs.

**Staff Recommendation.** Delay repayment of the Accountancy Fund \$10 million loan until June 30, 2013. Include the following budget bill language:

Add Item 1110-404:

1110-404—Notwithstanding Provision 1 of Item 1110-011-0704, Budget Act of 2010 (Ch. 712, Stats. 2010), the \$10,000,000 loan to the General Fund will be repaid in fiscal year 2012-13 upon order of the Director of Finance.

Delay repayment of \$1.3 million of the State Dentistry Fund loan repayment until June 30, 2013. Include the following budget bill language:

Add Item 1110-405:

1110-405—Notwithstanding Provision 1 of Item 1250-011-0741, Budget Act of 2002 (Ch. 379, Stats. 2002), the \$1,300,000 loan to the General Fund will be repaid in fiscal year 2012-13 upon order of the Director of Finance.

**Vote: No vote, issue held open**

**Department Overview.** The Department of Financial Institutions (DFI) was established effective July 1, 1997, to regulate depository institutions, including commercial banks, savings associations, credit unions, industrial loan companies, and certain other providers of financial services. In addition, the Department licenses and regulates issuers of payment instruments, including companies licensed to sell money orders and/or travelers' checks or licensed to engage in the business of transmitting money abroad, and business and industrial development corporations. Programs are supported by assessments of the various industries, license and application fees, and charges for various other services.

**Budget Overview.** The January Governor's Budget provides DFI with 250.2 authorized positions and \$35 million (no GF). This is an increase of 2.7 positions and \$55,000 over 2010-11.

### ***Issues Proposed for Discussion / Vote:***

#### **Issue 1 – Problem Licensees: Banking Examination and Consumer Services Impact**

**Governor's Budget Request.** The Governor requests:

1. Conversion of four limited-term positions to permanent status in the Banking Program; and
2. Three positions and \$352,000 from special funds (including \$50,000 contract funds) for the Consumer Services Program to address increased inquiries and complaints from the public resulting from the economic downturn.

**Background.** Each part of this request will be discussed separately.

**Banking Program.** The DFI Banking Program conducts examinations of financial institution loan portfolios, as mandated by state statute. These reviews are conducted on a risk-based examination schedule (but at least every 36 months). DFI works with financial institutions that are in trouble to return to a satisfactory condition and have adequate capital to operate and survive. Financial Institutions are rated on a scale of 1 to 5, with 1 representing the most financially sound bank. Currently, most of California's banks are rated 3 or worse. In 2009, DFI closed 11 banks and three credit unions in California.

**Consumer Services Program.** The Consumer Services Program receives complaints ranging from simple – overdraft fees, interest calculations, and car loans – to more complicated issues dealing with mortgage loans and modifications, missing funds, stocks, foreclosures, fraud, theft, and regulatory non-compliance. The Consumer Services Program received 620 complaints in 2007 and 1,744 complaints in 2010. However, during this time the number of staff available to respond to consumer complaints stayed the same. DFI is requesting three positions and \$50,000 in contract funding to address the workload associated with the increased number and complexity of consumer complaints and inquiries.

**Staff Comment.** The Banking Program workload has rapidly increased since 2008 as the financial crisis stressed the resources of many banks and financial institutions. The Banking Program examiners take nearly three years to train for core understanding of the banking system. Not extending the four examiner positions would lead to a loss of valuable training time. Staff recommends that the state keep these four trained examiners since the workload for the department is continuing.

The Consumer Services Program workload has increased and additional positions to respond to the workload are justified. However, staff is skeptical that the volume of consumer complaints will hold as the economy begins to improve. Also, staff questions the need for the \$50,000 in contract funds for consumer database maintenance. DFI already has a consumer database, and it is not clear why the maintenance costs of the database would have increased.

**Staff Recommendation:** Approve making permanent the four positions in the Banking Program. Approve Consumer Services Program positions as two-year limited-term positions. Reject the \$50,000 in contract funds for the Consumer Services Program.

**Vote: Approved staff recommendation  
2-0 (Evans)**

**Department Overview.** The Department of Managed Health Care (DMHC) was established in 2000, when the licensure and regulation of the managed health care industry was removed from the Department of Corporations and placed in a new, stand-alone, department. The mission of DMHC is to regulate, and provide quality-of-care and fiscal oversight for Health Maintenance Organizations (HMOs) and two Preferred Provider Organizations (PPOs). These 94 Health Care Plans provide health insurance coverage to approximately 64 percent of all Californians. Recent statutory changes also make DMHC responsible for the oversight of 240 Risk Bearing Organizations (RBOs), who actually deliver or manage a large proportion of the health care services provided to consumers. Within the Department, the Office of the Patient Advocate helps educate consumers about their HMO rights and responsibilities.

**Budget Overview.** The January Governor's Budget provides DFI with 250.2 authorized positions and \$35 million (no GF). This is an increase of 2.7 positions and \$55,000 over 2010-11.

### ***Issues Proposed for Discussion / Vote:***

#### **Issue 1 – Senate Bill 1163 Premium Rate Review**

**Governor's Budget Request.** The Governor requests 2.0 positions and \$1,024,000 from the Managed Care Fund for FY 2011-12 and \$908,000 for FY 2012-13 and ongoing (from the Managed Care Fund) to address new workload attributable to health plan rate increase review as specified in the federal Patient Protection and Affordable Care Act (PPACA or Health Care Reform) signed into law on March 23, 2010 and supported by Senate Bill 1163 enacted on September 30, 2010. Of the funds requested, \$100,000 is one-time for an information technology consultant to assist with website design in accordance with public information disclosure requirements, and \$600,000 is on-going for an external contract with an actuarial consultant.

**Background.** The Legislature passed, and the Governor signed, SB 1163 (Leno, 2010) to begin aligning California's laws with the federal Health Care Reform Act. With the passage of SB 1163, many of DMHC's roles and responsibilities for implementing Health Care Reform are defined and DMHC has been provided the authority to enforce the federal mandates in the state of California.

SB 1163 requires insurers to file rate information with DMHC that has been verified by an independent actuary under contract to the insurer. DMHC must make the rate information publicly available and verify rate information when it appears that a company may have violated the rate review process. DMHC must also provide information to the California Health Benefits Exchange and fulfill certain federal and state reporting requirements for health insurance rates.

**Staff Comment.** The workload associated with SB 1163 is new and thus there is uncertainty about the number of hours that will need to be devoted to the tasks DMHC is

required to undertake. Thus, staff thinks the requested positions should be made limited-term so that workload can be revisited in two years.

The funds for an external consultant to conduct actuarial review should be made limited-term (two-year) because it is not known what will be the actual workload. Also, DMHC should consider ways of bringing the actuarial review in-house rather than having a consultant contract indefinitely.

**Staff Recommendation:** Approve funds for two years and positions as two-year limited-term. Also, approve supplemental reporting language to have DMHC submit a report considering options for bringing actuarial review in-house.

**Vote:** No vote, issue held open